Supreme Court, U.S.
FILED

APR 10 2003

OFFICE OF THE CLERK

No. 02-1528

In the

Supreme Court of the United States

THE CITY OF CHARLESTON, SOUTH CAROLINA, *et al.*,

Petitioners,

v.

CRYSTAL M. FERGUSON, *et al.*,

Respondents.

On Petition for A Writ of Certiorari To The United States Court of Appeals For The Fourth Circuit

SUPPLEMENTAL APPENDIX

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27 pp

SUPPLEMENTAL APPENDIX
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United States District Court

District of South Carolina

Charleston Division

Case Number 2:93-2624-2

Lori Griffin, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]

Reuben Greenberg, [ ]

Charles Molony Condon, [ ]

David Schwacke, [ ]

Shirley Brown,R.N., [ ]

Edgar O. Horger, III, M.D, [ ]

Victor Del Bene, [ ]

John Sanders, [ ]

William B.Pittard, M.D., [ ]

Roger Newman, M.D., [ ]

Harold Bivens, M.D., [ ]

Melesia Henry, R.N., [ ]

Defendants.

VERDICT – SEARCH AND SEIZURE

WE, THE JURY UNANIMOUSLY FIND FOR THE ABOVE NAMED PLAINTIFF NOMINAL DAMAGES IN THE AMOUNT OF _____AND NO/100 DOLLARS AGAINST THE DEFENDANTS WHOSE NAMES ARE CHECKED IN THE CAPTIONED ABOVE THIS ___ DAY OF JANUARY, 1997.

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OR

WE, THE JURY, UNANIMOUSLY FIND FOR THE DEFENDANTS THIS __8__ DAY OF JANUARY, 1997.

/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court

District of South Carolina

Charleston Division

Case Number 2:93-2624-2

Laverne Singleton, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]

Reuben Greenberg, [ ]

Charles Molony Condon, [ ]

David Schwacke, [ ]

Shirley Brown,R.N., [ ]

Edgar O. Horger, III, M.D, [ ]

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Defendants.

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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court
District of South Carolina
Charleston Division
Case Number 2:93-2624-2

Sandra Powell, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]
Reuben Greenberg, [ ]
Charles Molony Condon, [ ]
David Schwacke, [ ]
Shirley Brown,R.N., [ ]
Edgar O. Horger, III, M.D, [ ]
Victor Del Bene, [ ]
John Sanders, [ ]
William B.Pittard, M.D., [ ]
Roger Newman, M.D., [ ]
Harold Bivens, M.D., [ ]
Melesia Henry, R.N., [ ]

Defendants.

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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court

District of South Carolina

Charleston Division

Case Number 2:93-2624-2

Crystal Ferguson, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]

Reuben Greenberg, [ ]

Charles Molony Condon, [ ]

David Schwacke, [ ]

Shirley Brown,R.N., [ ]

Edgar O. Horger, III, M.D, [ ]

Victor Del Bene, [ ]

John Sanders, [ ]

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Melesia Henry, R.N., [ ]

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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court
District of South Carolina
Charleston Division
Case Number 2:93-2624-2

Ellen L. Knight, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]
Reuben Greenberg, [ ]
Charles Molony Condon, [ ]
David Schwacke, [ ]
Shirley Brown,R.N., [ ]
Edgar O. Horger, III, M.D, [ ]
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John Sanders, [ ]
William B.Pittard, M.D., [ ]
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Melesia Henry, R.N., [ ]

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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court

District of South Carolina

Charleston Division

Case Number 2:93-2624-2

Patricia R. Williams, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]

Reuben Greenberg, [ ]

Charles Molony Condon, [ ]

David Schwacke, [ ]

Shirley Brown,R.N., [ ]

Edgar O. Horger, III, M.D, [ ]

Victor Del Bene, [ ]

John Sanders, [ ]

William B.Pittard, M.D., [ ]

Roger Newman, M.D., [ ]

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Melesia Henry, R.N., [ ]

Defendants.

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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court
District of South Carolina
Charleston Division
Case Number 2:93-2624-2

Pamela Pear, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]
Reuben Greenberg, [ ]
Charles Molony Condon, [ ]
David Schwacke, [ ]
Shirley Brown,R.N., [ ]
Edgar O. Horger, III, M.D, [ ]
Victor Del Bene, [ ]
John Sanders, [ ]
William B.Pittard, M.D., [ ]
Roger Newman, M.D., [ ]
Harold Bivens, M.D., [ ]
Melesia Henry, R.N., [ ]

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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court

District of South Carolina

Charleston Division

Case Number 2:93-2624-2

Darlene Nicholson, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]

Reuben Greenberg, [ ]

Charles Molony Condon, [ ]

David Schwacke, [ ]

Shirley Brown,R.N., [ ]

Edgar Ō. Horger, III, M.D, [ ]

Victor Del Bene, [ ]

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William B.Pittard, M.D., [ ]

Roger Newman, M.D., [ ]

Harold Bivens, M.D., [ ]

Melesia Henry, R.N., [ ]

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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court
District of South Carolina
Charleston Division
Case Number 2:93-2624-2

Paula Hale, Plaintiff

v.

CITY OF **CHARLESTON**, SOUTH CAROLINA, [ ]
Reuben Greenberg, [ ]
Charles Molony Condon, [ ]
David Schwacke, [ ]
Shirley Brown,R.N., [ ]
Edgar O. Horger, III, M.D, [ ]
Victor Del Bene, [ ]
John Sanders, [ ]
William B.Pittard, M.D., [ ]
Roger Newman, M.D., [ ]
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Melesia Henry, R.N., [ ]

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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court
District of South Carolina
Charleston Division
Case Number 2:93-2624-2

Theresa Joseph, Plaintiff

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA, [ ]
Reuben Greenberg, [ ]
Charles Molony Condon, [ ]
David Schwacke, [ ]
Shirley Brown,R.N., [ ]
Edgar O. Horger, III, M.D, [ ]
Victor Del Bene, [ ]
John Sanders, [ ]
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/S/ Doris Baltzegar

Forelady

Charleston, South Carolina

1-8-1997

United States District Court

District of South Carolina

Charleston Division

Case Number 2:93-2624-2

Hearing on Posttrial Motions -- August 13, 1997

(Excerpts of the Ruling of Judge C. Weston Houck)

[Hearing Tr. p. 54, line 9- p. 56, line 7]

The Court: Keep your seats. Okay. Let me preface my remarks by saying something that is totally irrelevant to everybody but me. This is without any question the toughest case I have ever had. It present more novel issue, it presents them in a unique fashion that makes it very, very difficult to determine what the applicable law really is and what legal ruling are correct. I said to my staff months and months ago while we were trying this case, that there wasn't much doubt in my mind that I was going to be reversed in this case. And they said, well, if you are going to be reversed and you know, it why don't you do something different. And I said because I don't know why I'm going to be reversed, I just know that it is almost impossible for anybody to try a case that has got this many issues in it and get them all right.

And so I think we'll have to see what the Fourth Circuit say, and I hope we don't have to try the case again, but I have already predicted that I'm going to get reversed and I wish I knew where I am going to get reversed so that a could correct it.

I submitted to the jury two issues. One was the issue of a Fourth Amendment violation because of the alleged illegal searches on these plaintiffs. And as I said earlier, I said that these searches were not constitutional unless the plaintiffs consented to it. The jury found that

they did consent them and found the verdict for the defendant on those claims.

I also submitted the claim asserted by the plaintiff for a violation of their equal protection rights under the fourteenth amendment. The jury also returned a verdict for the defendant on – for the defendants on those claims. Thereby concluding that the defendants' equal protection rights were not violated, to wit: That they were not discriminated against because of their race by the defendants.

The plaintiffs' have made a motion for judgment NOV as to those claims. As someone has pointed out earlier, the law requires that in considering that motion for judgment notwithstanding the verdict, that I must give the defendants the benefit of all inferences reasonably drawn from the evidence and view that evidence in the light most favorable to the non-moving party. And it is only when I conclude that having doe that, that a verdict cannot be sustained for the defendants, that I grant the motion.

I have done that in this case and I think that when I do, I am compelled to deny the plaintiffs' motion for judgment NOV. There is evidence in the record from which the jury could reasonably conclude that the plaintiff consented to these searches and that they therefore were not in violation of the fourth amendment to the Constitution.

In the United States District Court

For the District of South Carolina

Charleston Division

Civil Action No. 2:93-2624-2

Crystal M. **FERGUSON;** Paula S. Hale; Ellen L. Knight; Patricia R. Williams; Lori Griffin; Pamela Pear; Sandra Powell; Laverne Singleton; Theresa Joseph; Darlene M. Nicholson,

Plaintiffs,

v.

CITY OF **CHARLESTON,** SOUTH CAROLINA; Harrison L. Peoples, Dr.; Thomas C. Rowland, Jr., Dr.; Stanley C. Baker, Jr., Dr.; Charles B. Hanna, Dr.; Cotesworth P. Fishburne, Dr.; E. Conyers O'Bryan, Dr.; Melvyn Berlinsky; Patricia T. Smith; M.J. Cooper; Herbert C. Granger; Robert C. Lake, Jr.; Phillip D. Sasser; Claudia W. Peoples; Carroll V. Bing, Jr., Dr., as Trustees of the Medical University of South Carolina in their official capacities; Reuben Greenberg; Charles Molony Condon; David Schwacke; Shirley Brown,R.N.; Edgar O. Horger, III, M.D.; Victor Del Bene; John Sanders; William B.Pittard, M.D.; Roger Newman, M.D.; Harold Bivens, M.D.; Melesia Henry, R.N.,

Defendants

PARTIAL JUDGMENT

Filed

Jan 23 1997

Larry W. Propes, Clerk

Charleston, SC

This action came before the Court for a trial by jury, Chief Judge C. Weston Houck presiding. The issues have been tried, and the jury has rendered its verdict.

ACCORDINGLY, IT IS ORDERED AND ADJUDGED that as to the causes of action for Unreasonable Search and Seizure under the Fourteenth Amendment and Race Discrimination under the Equal Protection Clause of the Fourteenth Amendment the plaintiffs take nothing, that the said action to the extent they pray for damages be dismissed with prejudice, and that the defendants The City of Charleston, South Carolina, Reuben Greenberg, Charles Molony Condon, David Schwacke, Shirley Brown, R.N., Edgar O. Horger, III, M.D., Victor Del Bene, John Sanders, William B. Pittard, M.D., Roger Newman, M.D., Harold Bivens, M.D, Melesia Henry, R.N., recover their costs from the Plaintiffs.

IT IS FURTHER ORDERED AND ADJUDGED that as to the causes of action based on Abuse of Process, the Right to Refuse Medical Treatment under the Fourteenth Amendment, Gender Discrimination under the Fourteenth Amendment, and the Federal Confidentiality Statute, the motion of all Defendants for judgment as a

matter of law is granted and all said causes of action are dismissed with prejudice as to all plaintiffs.

IT IS FURTHER ORDERED AND ADJUDGED that as to the causes of action based on the Right to Privacy in Medical Records under the Fourteenth Amendment and the Right to Procreate under the Fourteenth Amendment, the motion of all defendants for judgment as a matter of law is granted and said causes of action to the extent they pray for damages are dismissed with prejudice as to all plaintiffs.

Larry W. Propes, Clerk of Court

/s/ Lisa H. Walpole

By: Lisa H. Walpole, Deputy Clerk

APPROVED: /s/ C. Weston Houck

C. Weston Houck, Chief United States District Judge

Charleston, South Carolina